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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**UNITED STATES OF
AMERICA,**

Plaintiff,

vs.

ROBERTO CRUZ SISNEROS
aka Roberto Cruz Cisneros,

Defendant.

CR 18-17-M-DLC

OFFER OF PROOF

Defendant Roberto Cruz Sisneros has signed a plea agreement pursuant to Rule 11(c)(1)(B) which contemplates his plea of guilty to the

indictment which charges illegal reentry, in violation of 8 U.S.C. § 1326(a) and (b). The defendant's plea of guilty will be unconditional.

The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

ELEMENTS. In order to prove illegal reentry, in violation of 8 U.S.C. § 1326(a) and (b), against the defendant at trial, the United States would have to prove the following elements beyond a reasonable doubt:

First, the defendant was deported from the United States;

Second, thereafter, the defendant voluntarily entered the United States;

Third, at the time of entry the defendant knew he was entering the United States;

Fourth, the defendant was found in the United States without having obtained the consent of the Attorney General or the Secretary of

the Department of Homeland Security to reapply for admission into the United States;

Fifth, the defendant was an alien at the time of the defendant's entry into the United States; and

Sixth, the defendant was free from official restraint at the time he was found in the United States.

PROOF. If called upon to prove this case at trial, and to provide a factual basis for the defendant's plea, the United States would present, by way of the testimony of law enforcement officers, lay and expert witnesses, and physical evidence, the following:

On March 21, 2018, DHS Homeland Security Investigations agents located and arrested the defendant at his residence in Hamilton, Montana. Based on his file, HSI agents determined that the defendant entered the United States without authority and was arrested in Utah in 1994. In 1996, he was deported. The defendant was located in the United States again in 1998. After being convicted of reentry of a deported alien, he was deported in 1999 to Mexico.

Immediately after his arrest in Hamilton, the defendant was interviewed. He confirmed his true identity and birth date, and stated he was born in Mexico. The defendant admitted that he entered the United States from Mexico without authority in approximately 1989, and was removed from the United States. The defendant said that after his removal, he reentered the United States without inspection by an immigration official approximately two months later. The defendant was encountered by immigration officials and convicted of reentry of a deported alien. After serving a term of imprisonment, the defendant was again deported from the United States. Then, in approximately 2011, he reentered the United States illegally through Arizona. The defendant acknowledged that he was not admitted to the United States by an immigration official.

After the interview, the defendant's fingerprints were compared to the fingerprints in his alien file and his identity and statements regarding his deportation were confirmed. There is no indication that the defendant ever applied for or obtained the permission of the United

States Attorney General or his successor, the Secretary of the
Department of Homeland Security to reenter the United States.

DATED this 16th day of May, 2018.

KURT G. ALME
United States Attorney

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2018, a copy of the foregoing document was served on the following persons by the following means:

- (1) CM/ECF
- () Hand Delivery
- () U.S. Mail
- () Overnight Delivery Service
- () Fax
- () E-Mail

1) Andrew J. Nelson
Attorney for defendant Cruz

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff